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duty to stop was based, *first,* on the ease with which an automobile could be stopped at a railway crossing without danger of being frightened if a train should pass near to it, and *secondly,* on the dangerous qualities of an automobile, since, due to its weight and size, it might wreck a train and injure the passengers. However, many courts, like the one in the principal case, have refused to hold that failure to stop is, of itself, contributory negligence as a matter of law. They have refused to follow the reasoning of the other courts that a different rule should be applied to automobiles than to other vehicles, and insist that ordinary rules of negligence should apply. *Walters* v. *Ry. Co.,* 47 Mont. 501; *Hartman* v. *Ry. Co.,* 132 Ia. 584; *Lockridge* v. *Ry. Co.,* 161 Ia. 74; *Pendroy* v. *Ry. Co.,* 17 N. D. 433; *Ry. Co.* v. *Dove,* 184 Ind. 447; *Nichols* v. *G. T. Ry. Co.,* 203 Mich. 372; *L. & N. Ry. Co.* v. *Treavor's Adm.,* 179 Ky. 337; *Kent* v. *Ry. Co.* (Wash.), 183 Pac. 87; *Ry. Co.* v. *Hilgartner* (Texas), 149 S. W. 1091; *Ry. Co.* v. *Schneider,* 257 Fed. 675. To put it in the words of the Indiana court, *Ry. Co.* v. *Dove, supra,* "the fact that one is driving an automobile may have an influence on the question of contributory negligence, just as the number and qualities of horses and the kind of vehicle one is driving may have; but the standard of care to be used, which is necessary to absolve from contributory negligence, is the same, whether the traveler is on foot, on horseback, in a wagon, carriage, or any other vehicle. It is that degree of care which one of ordinary prudence would use in the particular circumstances." Thus these latter authorities hold that the question of contributory negligence is for the jury, except in cases exceptionally free from doubt. *Walter* v. *Ry. Co., supra; Lockridge* v. *Ry. Co., supra; Pendroy* v. *Ry. Co., supra.* There seems to be no valid reason why this absolute duty to stop should be placed on automobile drivers, in the absence of statute, the disregarding of which makes them guilty of contributory negligence as a matter of law. It is a well-known fact that prudent men often do not stop before driving across railway tracks, and whether a person should or should not have stopped, along with looking and listening, should be left to the jury to judge, according to the usual duty in negligence cases, namely, what an ordinarily prudent person would have done under the same or similar circumstances.

STATUTORY CONSTRUCTION—STATUTE AS TO AUTOMOBILE LIGHTS VOID FOR INDEFINITENESS.—A Texas statute, Acts 36th Leg. (1919), c. 161, made it unlawful to operate automobiles, motorcycles or bicycles upon public highways of the state at night time whose front lamps threw forward a light of such glare and brilliancy as to seriously interfere with the sight of drivers of vehicles approaching from an opposite direction. Defendant was indicted under this statute, and he assailed its validity as creating a criminal offense. *Held,* void for indefiniteness; the glare and brilliancy not being properly defined. *Griffin* v. *State* (Tex., 1920), 218 S. W. 494.

There is no doubt that the law requires a certain degree of definiteness in denouncing acts as criminal. LEWIS' SUTHERLAND'S STATUTORY CONSTRUCTION, Vol. I, p. 86. It seems that the reason for the requirement of definite-

ness is that there must be some certain standard by which a person can determine in advance whether or not he is complying with the statute. *Cook* v. *State,* 26 Ind. App. 278. See also *U. S.* v. *Capital Traction Co.,* 34 App. D. C. 592, 19 Ann. Cas. 68. The definiteness required varies with the act prohibited and with the circumstances. *State* v. *Schaeffer,* 96 Oh. St. 215. There would seem also to be a distinction in whether the statute was civil or criminal, for it would be manifestly unfair, especially in regard to criminal offenses, for the statute to fail to sufficiently inform the party charged with its violation that he was doing a prohibited act. This doctrine is clearly recognized by the principal case, and the matter is further obviated by the requirements of the Penal Code of Texas, PENAL CODE, Art. 6, and the constitution of that state, Art. I, Sec. 10. Furthermore, it seems that the principal case in holding this statute obnoxious to the settled rules of statutory construction is in line with the weight of authority in this country. See *Strickland* v. *Whatley,* 142 Ga. 802, holding invalid a statute of Georgia, Acts 1916, p. 92, which provided that no motor vehicle should be driven "at a rate of speed greater than is reasonable and proper." A similar decision involving the same statute is *Hayes* v. *State,* 11 Ga. App. 371. A statute of Texas, Acts 30th Leg. c. 96, Sec. 3, containing the same provisions as the Georgia statute, was denounced in *Solan and Billings* v. *Pasche,* 153 S. W. 672. See also *State* v. *Gaster,* 45 La. Ann. 636; *Augustine* v. *State,* 41 Tex. Cr. R. 59; *Ex parte Jackson,* 45 Ark. 158; *Matthews* v. *Murphy,* 23 Ky. L. Rep. 750; *L. & N. R. R. Co.* v. *Commonwealth,* 99 Ky. 132; *Hilburn* v. *St. Paul, etc., Ry. Co.,* 23 Mont. 229; *Johnston* v. *State,* 100 Ala. 32. However, Sec. 12603, G. C. OF OHIO, which prohibited the operation of a motor vehicle "at a speed greater than is reasonable and proper," was upheld by the Ohio Supreme Court in *State* v. *Schaeffer, supra.* This statute was later amended, LAWS OF OHIO, 1919, Part I, p. 471, by prescribing that beyond a certain specified speed per hour it "shall be presumptive evidence of a rate of speed greater than is reasonable and proper." Also, MASS., Act 1909, ch. 534, p. 829, which is exactly similar to the Ohio statute, as amended, was upheld in *Emery* v. *Miller,* 231 Mass. 243, and *Commonwealth* v. *Cassidy,* 209 Mass. 24. In accord with the Ohio decision (*contra* to the principal case), see *Burlington, etc., Ry. Co.* v. *Dey,* 82 Ia. 312; *Schultz* v. *State,* 89 Nebr. 34.

TORTS—PRACTICAL JOKE—DAMAGES FOR HUMILIATION, ETC.—Having been advised by a colored fortune-teller that a pot of gold had been buried by deceased relatives upon the land of one Smith, and being provided by the fortune-teller with a map showing the supposed location of said pot, plaintiff began digging operations on Smith's land. The search having gone on for some time with the not surprising result of finding nothing, defendants arranged a "planted" pot containing not gold but stones, etc. This in due time was uncovered, and, following directions written thereon, was deposited in a bank for three days until all the relatives could be collected. With much ceremony, and in the presence of a crowd, the pot was opened. Plaintiff sued for damages, caused by the humiliation and mental suffering. *Held,* revers-